

United States
Circuit Court of Appeals
For the Ninth Circuit.

RUSSELL O. DOUGLASS,
Petitioner and Appellant,

vs.

ROY W. BLAIR, as Trustee in Bankruptcy of the
Estate of RUSSELL O. DOUGLASS,
Respondent and Appellee.

Petition for Revision

Under Section 24b of the Bankruptcy Act of Congress, Approved
July 1, 1898, to Revise, in Matter of Law, an Order of the
Northern Division of the United States District Court
for the Northern District of California, and
upon Appeal from Said District Court.

FILED

NOV 20 1925

F. D. MONCKTON,
CLERK

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vs.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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In the District Court of the United States, in and
for the Northern District of California.

IN BANKRUPTCY—No. 1407.

In the Matter of RUSSELL O. DOUGLASS, Bank-
rupt.

PETITION TO REVISE IN MATTER OF LAW.

To the Honorable, the Judges of the Circuit Court
of Appeals of the Ninth Circuit of the United
States:

Your petitioner respectfully shows:

That he resides at Folsom, in the county of Sac-
ramento, in the Northern District of California,
and is a creditor of Russell O. Douglass, a bankrupt,
who was so adjudged by the District Court above en-
titled, on the 22d day of May, A. D. 1924.

That, after such adjudication, the following pro-
ceedings were had in the case of said bankrupt:

On the 27th day of June, 1924, the creditors of a
partnership firm, of which said bankrupt was a
member, by written agreement, and by deed and re-
lease, to them made, executed and delivered by said
bankrupt, took over the interests of said bankrupt
upon the consideration in said agreement stated,
to wit: that, said parties creditors would operate
the firm business and would pay the claims of the
creditors of said firm, and the claims of them, the
said contracting creditors.

That thereafter, to wit, on the 12th day of December, 1924, said bankrupt filed a petition in the above-entitled court, praying that he be discharged from all the debts and liabilities, allowed against his estate.

That, thereafter, to wit, on the 27th day of January, 1925, Evan J. Hughes, Esq., Referee in Bankruptcy, ordered the said bankrupt to turn over to Roy W. Blair, all of his individual assets for the benefit of the aforesaid partnership creditors.

That petitioner herein thereupon filed a petition for a review of said Referee's order.

That on or about the 14th day of March, 1925, said petition was presented to the Court, Hon. Judge — Bourquin, presiding, and upon the matter having been submitted to the court, the order of the Referee was affirmed by said Judge Bourquin, upon the grounds stated in his opinion.

That, thereafter, to wit, on the 14th day of July, 1925, Roy W. Blair, Esq., Trustee in Bankruptcy in said cause, made application to Evan J. Blair, Esq., Referee in Bankruptcy in said cause, for authority to sell the individual property of said bankrupt, to satisfy the claims of the aforesaid partnership creditors.

That, thereafter, to wit, on the 3d day of August, 1925, said application was heard, and same was by said Referee granted, and said Roy W. Blair, Esq., was authorized to sell the stage franchise and equipment of the bankrupt to satisfy the claims of the aforesaid partnership creditors.

That, thereafter, to wit, upon the 4th day of August, 1925, your petitioner, by proper affidavits

regularly prepared and presented to the court on the 5th day of August, 1925, obtained an order to show cause, directed to the said Referee and Trustee in Bankruptcy in said cause, commanding that they show cause before the court why they and each of them should not be restrained and enjoined from proceeding to sell the individual assets of the bankrupt, for the purpose of satisfying the claims of partnership creditors, before having exhausted the assets of the aforesaid partnership.

That said order to show cause came on regularly to be heard before the court on the 18th day of August, 1925, Peter J. Wilkie, Esq., appearing for petitioner, and A. W. Reynolds and H. W. Funke, Esq., appearing for the said Referee and Trustee, aforesaid.

That upon said matter being presented and the Court having heard counsel for the respective parties, the same was submitted for consideration and finding:

That, thereafter, to wit, on the 21st day of August, 1925, the Court made its order and findings in said cause, in the manner following, to wit:

“At a stated term of the Northern Division of the United States District Court, for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Friday, the 21st day of August, in the year of our Lord one thousand nine hundred and twenty-five. Present: The Honorable A. F. ST. SURE, District Judge.

No. 1407.

In re RUSSELL O. DOUGLASS, Bkt.

The order to show cause why an injunction should not be granted restraining Referee and Trustee in Bankruptcy in the above case from selling the personal property of the above-named Bankrupt, heretofore argued and submitted, being now fully considered, it is ORDERED that the order to show cause be denied, restraining order heretofore issued be and the same is hereby dissolved and this cause referred to Evan J. Hughes, Esq., Referee in Bankruptcy, for further proceedings.”

That said order was erroneous in matter of law in that:

1. It sets aside the terms and conditions of a written contract entered into between the creditors of a partnership firm not in bankruptcy, and which contract was made by said creditors for the satisfaction of the very claims, for which the sale of the individual property of the bankrupt is now sought.
2. Said order is erroneous in matter of law, in that: It takes the individual assets of the bankrupt, to satisfy partnership claims, which have already been satisfactorily settled.
3. Said order is erroneous in law, in that: It takes from the individual creditor, your petitioner, whose claim is in the sum of \$3000.00, together with accrued interest, the property secured to him by law as such individual

creditor, before exhausting the partnership assets.

4. Said order is erroneous in matter of law, in that:
It requires no accounting of the partnership business which is a solvent and going concern, and orders the sale of individual assets of a partner in bankruptcy, to pay the claims of partnership creditors, which said creditors themselves had on the 27th day of June, 1924, agreed in writing to pay, satisfy and discharge.
5. Said order is erroneous in matter of law, in that:
It sanctions the sale of the individual assets of the bankrupt, for the purpose of paying the claims of a firm of which said bankrupt is not, and never was a member, a new partnership having been formed at the time of the signing of said agreement consisting of the remaining partners of the old firm, and the creditors signing said agreement.
6. Petitioner herein, is the only individual creditor of the bankrupt estate, and has not sought the sale of said individual assets, and no other cause exists for selling same than that heretofore stated.

WHEREFORE, your petitioner, feeling aggrieved because of such order, asks that the same may be revised in matter of law by your Honorable Court, as provided in Section 24b of the Bankruptcy

Law of 1898, and the rules and practice in such case provided.

RUSSELL O. DOUGLASS.
PETER J. WILKIE, Esq.,
Attorney for Petitioner.

State of California,
County of Sacramento,
City of Sacramento,—ss.

I, R. O. Douglass, the petitioner mentioned and described in the foregoing petition, do hereby make solemn oath that the statements of fact therein contained are true, according to the best of my knowledge, information, and belief; and that by transfer to me of the claim of S. N. Douglass, in the sum in the schedule of said bankrupt stated, to wit, \$3000.00, I am the only individual creditor of said bankrupt.

RUSSELL O. DOUGLASS.

Subscribed and sworn to before me this 27th day of August, 1925.

[Seal]

L. B. KELLER,
Notary Public in and for the County of Sacramento,
State of California.

[Endorsed]: No. 4693. United States Circuit Court of Appeals for the Ninth Circuit. Russell O. Douglass, Petitioner, vs. Roy W. Blair, as Trustee in Bankruptcy of the Estate of Russell O. Douglass, Respondent. Petition for Revision Under Section 24b of the Bankruptcy Act of Congress, Approved July 1, 1898, to Revise, in Matter of Law, an Order of the Northern Division of the United States District Court for the Northern District of California.

Filed September 21, 1925.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

United States
Circuit Court of Appeals
For the Ninth Circuit.

RUSSELL O. DOUGLASS,

Appellant,

vs.

ROY W. BLAIR, as Trustee in Bankruptcy of the
Estate of RUSSELL O. DOUGLASS,

Appellee.

Transcript of Record.

Upon Appeal from the Northern Division of the United
States District Court for the Northern District
of California.

In the Matter of RUSSELL O. DOUGLASS, Bankrupt.

NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD.

P. J. WILKIE, Nicolaus Bldg., Sacramento, Calif.,
Attorney for Petitioner.

A. B. REYNOLDS, Ochsner Bldg., Sacramento,
Calif.,
Attorney for Trustee.

In the District Court of the United States in and for
the Northern District of California.

In the Matter of RUSSELL O. DOUGLASS, Bankrupt.

PETITION FOR REVIEW OF REFEREE'S
ORDER.

To Evan J. Hughes, Esq., Referee in Bankruptcy:
Your petitioner R. O. Douglass, above named,
respectfully shows:

That on the 22d day of May, 1924, your petitioner
was adjudicated a voluntary bankrupt, under the
provisions of the Bankruptcy Laws of the United
States of America.

That said voluntary bankruptcy was occasioned
by reason of the matters and things set forth and
contained in the affidavit of your petitioner hereto
annexed, marked Exhibit "A," referred to herein,
and by such reference made a part hereof.

That the schedule of your petitioner on file and of record in the above-entitled cause shows as follows, to wit:

	Liabilities.
On Page 1 thereof, the sum of.....	\$ 1395.00
On Page 3 thereof, the sum of.....	9180.00

Or the total in the sum of.....	\$10575.00

All of which were, and are, partnership liabilities for which your petitioner was being held personally liable, and on account of which your petitioner's property was attached by order of the Superior Court of the State of California in and for the County of Sacramento, in the action entitled "The California National Bank of Sacramento (a Corporation) vs. R. O. Douglass and H. H. Pierce. [1*]

That the only individual creditor of your petitioner, as shown by his schedule aforesaid, on page 2 thereof, was one S. N. Douglass, who held a secured claim for the amount and sum of \$3,000.00.

That there were no other individual creditors of your petitioner whose claims had not been paid.

That on the — day of June, 1924, your petitioner herein entered into an express agreement, by and with the creditors of the partnership of Pierce, Pierce, Pierce and Douglass, a copy of which agreement hereto appended, is marked Exhibit "B," referred to herein, and by such reference is made a

*Page-number appearing at foot of page of original certified Transcript of Record.

part hereof, by the terms of which agreement your petitioner transferred, assigned and set over unto one McGrew, all his (petitioner's) right, title, and interest in and to the partnership property set forth and contained on pages 7 and 8 of your petitioner's schedule in bankruptcy, amounting in all to the total sum of \$37,750.00, and of which sum your petitioner was the possessor of a full and undivided $\frac{1}{4}$, one-quarter, interest. In consideration of the following considerations, in said contract contained, and all of which were agreed to by the creditors of said partnership aforesaid, as follows, to wit:

1st. That said F. L. McGrew should dispose of certain property, and retain from the proceeds thereof the sum of \$3000.00 for his own personal use.

2d. That said F. L. McGrew should hold and retain, and operate for the benefit of the creditors of said partnership, the lumber interests, land and timber, sawmills, trucks, and all other property, both real and personal, the property of said partnership to the interest of the creditors of said partnership, upon the conditions set forth in said contract [2] hereto appended and marked Exhibit "B."

3d. That the proceeds accruing from the said operating and conducting of said partnership business, should be used: (a) to repay said McGrew, for any moneys expended by him in the operation of said partnership business, and (b) the balance

to be distributed to the general creditors, in liquidation of their respective claims against said partnership, and in payment of attorney's fees, and other necessary costs; and that subsequent to, and after all claims of the creditors of said partnership had been paid, said McGrew would deliver the entire balance of the said partnership property over to one, H. H. Pierce, as sole owner of such property, without recourse by your petitioner or any of the other of said partnership, against said H. H. Pierce.

4th. That said F. L. McGrew was one of the largest creditors of said partnership, and was not at the time of the making of said agreement, a partner or copartner in said partnership business, or otherwise interested therein save as stated.

That on the 27th day of June, 1924, Roy W. Blair, the regularly appointed, qualified and acting trustee of the estate of R. O. Douglass, bankrupt, made and served upon your petitioner the "Notice of Election," a copy of which is hereto appended, marked Exhibit "C," referred to herein, and by such reference made a part hereof. In which, as said trustee, said Roy W. Blair, elected to abandon and surrender all right, title, and interest of the estate of Russell O. Douglass, bankrupt, in and to the partnership interests in said notice described.

[3]

That subsequent to the time of the execution of the above and foregoing instruments, the aforesaid F. L. McGrew took possession of the partnership

property hereinbefore mentioned, and operated and conducted same for the benefit of the creditors of said partnership, and disposed of certain of the said partnership assets, and still is in possession and control of the said partnership business under and by virtue of the contract aforesaid.

That on the 27th day of January, 1925, your petitioner appeared for examination before Evan J. Hughes, Esq., Referee in Bankruptcy, in obedience to the order of said Referee, at the office of said Evan J. Hughes, in the Capitol National Bank Building, in the city of Sacramento, State of California.

And over the objection of counsel for your petitioner, Peter J. Wilkie, Esq., who was then and there present, your petitioner was compelled to submit himself to examination in respect to matters pertaining to his estate, though a full examination had formerly been had of your petitioner on the — day of June, 1924, which examination was not adjourned, or continued, and no formal or other application for this examination was made by any creditor of your petitioner.

That a court reporter was engaged for the purpose of taking down in shorthand the testimony of your petitioner, and said reporter was informed by said Referee, Evan J. Hughes, Esq., aforesaid, that his, said reporter's fees, would be paid out of the estate of your petitioner.

That said Referee aforesaid did also, and then and there, and at the close of said examination,

aforesaid, order your petitioner to turn over to Roy W. Blair, the formerly [4] appointed trustee, in this cause, all of his, petitioner's, individual assets; and did order and command the said Roy W. Blair to take possession of all of the personal and individual assets of your petitioner and dispose of same, for the benefit of the creditors of the former partnership of Pierce, Pierce, Pierce and Douglass.

That such order was and is erroneous for the following reasons, to wit:

1st. By reason of the fact that a dissolution of the said partnership was created at the time of the execution of said agreement hereto appended and marked Exhibit "B," your petitioner was no longer a member of said partnership and had not been for more than seven months immediately preceding the date of the examination heretofore referred to.

2d. That said partnership business is now being, and ever since the time of the execution of said contract marked Exhibit "B" hereto appended, has been conducted by the creditors under the terms of said contract.

3d. That there are no individual creditors of your petitioner whose claims have not been paid by your petitioner, and no claims presented by his individual creditors, which at this time remain unpaid.

4th. That upon the execution of the contract, marked Exhibit "B" hereto appended, the said Roy W. Blair, Trustee in Bankruptcy, should have

been discharged, there being no individual creditors of your petitioner whose claim were unsatisfied.

That the order of said Referee, Evan J. Hughes, aforesaid, commanding said Roy W. Blair, said trustee, aforesaid, to pay the fees of the stenographic reporter, as aforesaid, was and is erroneous in this, that said examination was not had, and said [5] testimony was not called for, or taken by reason of the application of any creditor of your petitioner, for such examination, and was unauthorized, irregular and unjustified.

That the agreement, a copy of which marked Exhibit "B," is appended hereto, should and ought to have been confirmed by the Hon. Judge of the Court in which this matter is pending, and such confirmation has never been sought by any of the contrasting parties.

WHEREFORE your petitioner feeling aggrieved because of the orders of Evan J. Hughes, Esq., said Referee aforesaid, as hereinbefore set forth, prays that the same may be reviewed, as provided in the bankruptcy law of 1898, and General Order XXVII.

That the agreement, hereinabove referred to, be confirmed by the Hon. Judge of the aforesaid District Court, and such other relief granted your petitioner as justice and equity will permit.

Dated January 30th, 1925.

RUSSELL O. DOUGLASS,
Petitioner.

State of California,
County of Sacramento,
City of Sacramento,—ss.

I, R. O. Douglass, the petitioner mentioned and described in the foregoing petition, do hereby make solemn oath that the statements of fact therein contained are true, according to the best of my knowledge, information and belief.

RUSSELL O. DOUGLASS.

Subscribed and sworn to before me this 30th day of January, 1925.

[Seal] EDITH L. RUGGLES,
Notary Public in and for the County of Sacramento,
State of California. [6]

EXHIBIT "A."

State of California,
County of Sacramento,—ss.

Russell O. Douglass, being first duly sworn, deposes and says, as follows, to wit:

That he is the petitioner in the foregoing petition named, that, on the 19th day of May, 1924, an action was brought against him in the Superior Court of the State of California, in and for the County of Sacramento, entitled "The California National Bank (a Corporation) vs. R. O. Douglass and H. H. Pierce"; that said action was brought to recover certain moneys loaned by said Bank to the partnership of Pierce, Pierce, Pierce and Douglass, and that the individual property of affiant was taken

under the Writ of Attachment issuing in said cause; that another suit was brought against affiant in the Justice's Court of Sacramento, Township, County of Sacramento, California, for a claim against said partnership aforesaid, and that certain other creditors of said partnership whose names affiant does not remember had threatened to bring suit against affiant; that thereupon, and in order to avoid extended litigation and a multiplicity of suits against him, affiant herein filed his schedule in bankruptcy and applied himself to the judgment of the court in bankruptcy, for an adjudication of the various claims.

That subsequent to the time of affiant's being adjudicated a bankrupt, several meetings were called by the creditors of the partnership, at which meetings a majority of the creditors were present, and certain propositions were submitted by said creditors, with the object of liquidating the liabilities of said partnership; that, upon consideration of the promise of the California National Bank, creditor, to accept a [7] short time promissory note from one, F. L. McGrew, also a creditor, in satisfaction of its claim against affiant and H. H. Pierce, a partner, which promissory note was duly made by said F. L. McGrew in favor of said Bank and delivered to said Bank, as affiant has been informed, and upon information and belief alleges, and in consideration of the other promises and agreements set forth and contained in that contract marked Exhibit "B" hereto appended, your petitioner, affiant herein,

transferred, assigned, and set over unto the said F. L. McGrew all his, affiant's, right, title and interest in and to the said partnership assets and in and to the said partnership business.

That said partnership assets, and said partnership business, was thereupon taken over, by said F. L. McGrew, and was conducted, carried on and operated, and is still being conducted, carried on and operated by said F. L. McGrew, for the benefit of the creditors of said partnership.

That the assets of the estate of your petitioner, affiant, herein, consist, principally, of a passenger stage business, and equipment, that, if the order of the Referee in bankruptcy is allowed to stand, affiant will be compelled to discontinue the operation of said stage business, and the certificate of public convenience and necessity to him granted by the Railroad Commission of the State of California will be jeopardized, if not utterly lost, to the estate of affiant, and further affiant saith not.

RUSSELL O. DOUGLASS,

Affiant.

Subscribed and sworn to before me this 30th day of January, 1925.

[Seal]

EDITH L. RUGGLES,

Notary Public in and for the County of Sacramento,
State of California. [8]

EXHIBIT "B."

THIS AGREEMENT made and entered into this — day of June, 1924, by and between E. A. Pierce, Viola M. Pierce, H. H. Pierce, R. O. Douglass and Bernice Douglass, hereinafter referred to as debtors, and F. L. McGrew, hereinafter referred to as trustee, and the several persons, companies and firms whose names are hereunto signed respectively, being creditors of said debtors, and all other creditors of said debtors acceding thereto, hereinafter called Creditors,

WITNESSETH:

THAT WHEREAS said persons herein referred to as debtors have in various capacities been engaged in the business of operating a sawmill and conducting a retail lumber-yard, and have contracted obligations, indebtednesses and liabilities to various persons and parties;

AND WHEREAS, the said R. O. Douglass, as an individual, has heretofore filed a voluntary petition in bankruptcy, and a trustee has been duly appointed and is in charge of his estate;

AND WHEREAS, it appearing that the assets used by such debtors in the conducting of said sawmill and lumber business are encumbered by mortgage so that at this time the equity therein would be of practically no value unless such mill can be operated, and it being the desire of all parties hereto that such business shall be continued under a

trusteeship as hereinafter more specifically set forth,—

NOW, THEREFORE, it is agreed that the parties herein referred to as debtors shall execute to the said F. L. McGrew a deed to the said property heretofore used in the conducting of such business; that the said F. L. McGrew, as an individual, shall have the right to dispose of the North Sacramento property, and any sum received in excess of Three Thousand Dollars shall go into the trustee's fund,— the first three thousand dollars, however, [9] shall be retained by him and credit given him on mortgages covering said property.

AND IT IS AGREED THAT WHEREAS the said F. L. McGrew now has certain mortgage interests in and to the El Dorado County property, and that he will not dispose, sell, assign or in any way encumber the same during this trustee agreement but retain the same, except as herein otherwise agreed as a security to the creditors for the faithful accounting of all funds coming into his possession by virtue of the operation of such sawmill, as such trustee as hereinafter set forth.

That the said F. L. McGrew agrees as such trustee that he will to the best of his ability and knowledge, operate, handle and deal in the assets of said sawmill and apply the net proceeds as hereinafter mentioned toward the extinguishing of the obligations as hereinafter more specifically set forth, and to take care of, mortgage, handle, operate, dispose, sell, hypothecate or in any manner deal with and in

any of the personal property for the purposes herein set forth.

The trustee agrees to advance for the undersigned creditors such amount as is necessary for the initial expenses in commencing operations of the sawmill, and that he will also take care of the account now due the California National Bank of Sacramento, California, being approximately the sum of \$1250.00, and that such sums shall be repaid to said F. L. McGrew as an individual as hereinafter set forth.

IT IS AGREED THAT WHEREAS the said trustee, as an individual, has a mortgage interest in the real property used for the operation of said sawmill, and C. D. Le Master, whose name is hereto subscribed as a creditor, has a mortgage interest on such timber, that the said trustee shall pay to himself as an individual the sum of One Dollar on each thousand feet stumpage and to the said C. D. Le Master the sum of Fifty Cents on each [10] thousand feet stumpage. It being understood that said amount shall be considered as an equity in arriving at the amount of depreciation of the mortgage security.

The said F. L. McGrew agrees as such trustee that he will conduct and operate the said sawmill and dispose of the manufactured product and will otherwise handle and dispose of the assets to the best of his judgment and will keep accurate account of all monies advanced and expended, and such records shall at all times be open for the inspection of all parties herein concerned.

IT IS AGREED that the proceeds received from the sale of lumber or other assets which may accumulate shall be applied in manner following:

First: The general operating expenses including the purchase price of such material as may be necessary shall first be paid; then such fund or funds as may have been advanced by the trustee shall be repaid to him, and all labor claims which have accumulated and are a priority at law, shall be paid; also the sum of Two Hundred Fifty and no/100 Dollars (\$250.00), on account of trustee's fees in handling such property, following the payment of which the said trustee shall use the assets accumulated from time to time to be distributed to the general creditors at such time as may hereafter be agreed upon by such trustee and the creditors' committee as hereinafter named.

It is agreed that the said C. D. Le Master and Curtis H. Cutter, two of the subscribing creditors, shall advance the trustee as to payments of obligations, and with him shall determine priority of payments of various claims and the general distribution of assets which may accumulate. It being agreed that the schedule hereinafter set forth shall apply, providing there are no extenuating circumstances involving other creditors, [11] and that said trustee and committee shall use their best judgment in taking care of such obligations as will work to the best interest of all concerned.

It is agreed that the remainder of the trustee's fee of \$750.00 shall be considered as a claim of general creditor and be entitled to receive payment on dis-

tribution of the assets; said trustee's fee herein agreed to be paid are for the purpose of defraying the expenses of attorney's fees and assistance in keeping a general account of the operations of said mill during the said trusteeship.

Following the payment of the obligations to the general creditors and other payments as herein stated, it is agreed that should trustee employ H. H. Pierce to run, conduct and operate such sawmill for him, that he should conduct such operations in such a satisfactory manner, then the said trustee agrees upon the said payments being made and obligations being terminated that he will transfer all of the assets received by him by virtue of this trusteeship to said H. H. Pierce, and the other parties herein named debtors agree that they will at such time, sign such instruments, deeds or other papers transferring the full interest to the said H. H. Pierce as his own, and for his individual use and benefit.

It is also agreed that the said C. D. Le Master for the purpose of this agreement waives the right of his security in such mill property and lumber which has now been accumulated, and agrees to participate as a general creditor except that in view of the fact that the said C. D. Le Master on account of having taken legal action has heretofore rendered valuable assistance to all of the creditors by preserving such property for all creditors, that when sufficient funds have accumulated, that in the judgment of the trustee and such committee it is [12] practical to recompense him for reasonable attorney's fees, that

they shall at their option reimburse him for such fund.

The parties herein referred to as debtors do by these presents, sell, assign, transfer and set over to the said F. L. McGrew, as such trustee, all the personal property, and all right, title and interest in and to such property as heretofore used by them in the conducting of such lumber business, to use for the purposes as hereinbefore set forth.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year in this agreement first above written.

E. A. PIERCE,
VIOLA M. PIERCE,
R. O. DOUGLASS,
BERNICE DOUGLASS,
H. H. PIERCE,

Debtors.

F. L. MCGREW,
Trustee.

C. D. LE MASTERS. [13]

EXHIBIT "C."

In the District Court of the United States, in and for the Northern District of California, First Division.

In the Matter of RUSSELL O. DOUGLASS, a Voluntary Bankrupt.

NOTICE OF ELECTION.

To Viola M. Pierce, F. L. McGrew, Horace H. Pierce, A. B. Kesler, and Any Other Interested Parties:

You, and each of you, are hereby notified that the undersigned, Roy W. Blair, Trustee in the matter of the bankruptcy of Russell O. Douglass, bankrupt above named, does hereby elect to abandon and surrender all right, title and interest of the Estate of Russell O. Douglass, a bankrupt, in and to the following real property, situate, lying and being in the County of Sacramento, State of California, described as follows, to wit:

The West 45 feet of the Southerly 150 feet of Lot Three in Block 45 of North Sacramento, Subdivision No. 1.

Said Trustee does also hereby elect to abandon and surrender all right, title and interest of the Estate of Russell O. Douglass, a bankrupt, in and to the following real property, situate, lying and being in the County of El Dorado, State of California, described as follows, to wit:

W.1/2 of SE.1/4; SE.1/4 of SW.1/4 of sec. 29; NW.1/4 of NE.1/4 of sec. 32, all in Tp. 10 N., R. 13, R. N.1/2

of SW. $\frac{1}{4}$ of sec. 28; E. $\frac{1}{2}$ of SE. $\frac{1}{4}$ of sec. 29 in Tp. 10 N., R. 13 E., M. D. B. & M.

Said Trustee does also hereby elect to abandon and surrender all right, title and interest of the Estate of said Russell O. Douglass, a bankrupt, in and to all property and assets belonging to the copartnership of Douglass & Pierce Lumber Company, said property and assets consisting of a certain sawmill, together with the machinery and equipment used in connection therewith located on the real property hereinbefore described; also one Packard Five Ton Truck.

This election by said Trustee to abandon and surrender all right, title and interest of the Estate of said Russell O. Douglass, a [14] bankrupt, in and to the above-described property, is made for the following reasons:

That the indebtedness owed by said copartnership of Douglass & Pierce Lumber Company amounts to more than the assets belonging to said copartnership, and that to attempt to claim any interest in behalf of the Estate of Russell O. Douglass, a bankrupt, in and to said property hereinbefore set forth, belonging to said copartnership of Douglass & Pierce Lumber Company, would be onerous and unprofitable to the Estate of Russell O. Douglass, a bankrupt, and would burden instead of benefiting said Estate.

Said Trustee does not abandon and surrender the right, title and interest of the Estate of said Russell

O. Douglass, a bankrupt, in and to one Five Ton White Truck.

Dated: June 27th, 1924.

Trustee.

[Endorsed]: Filed February 2, 1925. Evan J. Hughes, Referee in Bankruptcy.

[Endorsed]: Filed at 10 o'clock and — min. A. M. Feb. 13, 1925. [15]

United States District Court, California.

No. 1407.

In re DOUGLASS.

OPINION AFFIRMING REFEREE'S ORDER.

Review of the referee's order is denied, and order affirmed. On review, nothing can be considered save the evidence by the referee certified. On that, his order to deliver the bankrupt's property to the trustee is right. So is it, if could be considered the matters presented first in the bankrupt's petition. As to that, he virtually claims his bankruptcy is but pretended, and strategy to hinder and delay creditors—was in bad faith! Although this might afford ground for inquiry anent his abuse of the equity powers of the court, it can avail him nothing to avoid his duty to deliver up his property,—so long as the adjudication of bankruptcy stands.

BOURQUIN, J.

Mar. 23, 1925.

[Endorsed]: Filed March 23, 1925. [16]

In the District Court of the United States in and
for the Northern District of California.

No. 1407.

In the Matter of RUSSELL O. DOUGLASS,
Bankrupt.

AFFIDAVIT OF RUSSELL O. DOUGLASS.

State of California,
County of Sacramento,—ss.

Russell O. Douglass, being first duly sworn, deposes and says that he is the petitioner in the above-entitled cause, named.

That on the 22d day of May, 1924, as such petitioner, he was adjudicated a voluntary bankrupt; that said voluntary bankruptcy was occasioned by reason of the matters and things set forth and contained in his petition for Review of Referee's order, on file and of record with the papers and records in said cause, in the above-entitled court.

That the records and papers in said cause will show that petitioner was forced into bankruptcy by the action of creditors of a copartnership, of which petitioner was a member, to wit; the copartnership of Pierce, Pierce and Douglass;

That on the — day of June, 1924, subsequent to the date of the aforesaid adjudication of your petitioner as a bankrupt, as aforesaid, certain persons, to wit, F. L. McGrew, C. D. Le Master and Curtis H. Cutter, principal creditors of the aforesaid copartnership, entered into a written agreement with

affiant, your petitioner, wherein and whereby the said creditors agreed to pay, satisfy and discharge all of the debts, claims and liabilities of the said copartnership, in consideration of the agreement of affiant, to turn over to said persons, by deed and by release, all of his, affiant's, right, title and interest in and to the said copartnership property and assets.

That affiant, by deed and by release to them, the said persons [17] aforesaid, did turn over to the said persons all of his right, title and interest in and to the said copartnership property and assets, and said persons did on or about the said 27th day of June, 1924, take possession of the same, and have ever since said time carried on, conducted and operated, and are now carrying on, conducting and operating the said business, and have paid off a large amount of the said copartnership debts and liabilities, the total sum of which is unknown to your petitioner, and all of which appears on file and of record among the papers and records in this cause.

That on the 27th day of June, 1924, Roy W. Blair, Esq., the Trustee in Bankruptcy appointed in this cause, who was a party to, and had been fully advised and informed of all these matters, filed a Notice of Election with the Clerk of the above-entitled court, waiving his right as such trustee to proceed against the said partnership property, which Notice of Election is also on file and of record among the papers and records on file in this cause.

That thereafter, to wit, on the 12th day of December, 1924, affiant filed a petition in the above-en-

titled court, praying that he be discharged from all the debts and liabilities of said copartnership.

That thereafter, to wit, on the 27th day of January, 1925, Evan J. Hughes, Esq., Referee in Bankruptcy, after due notice to affiant, held an examination of affiant in the office of said referee, at Sacramento, California, and ordered and commanded affiant, that he, affiant, should turn over all his assets to said Roy W. Blair, Trustee aforesaid, for the benefit of the partnership creditors aforesaid; that your petitioner, through his attorney, Peter J. Wilkie, Esq., resisted said order, and petitioned for a writ of review of said order, setting forth in his said petition all the matters and things hereinabove set forth, and alleging therein [18] that the petitioner had no individual liabilities which he was not able to pay, and that all of his individual liabilities had been paid, satisfied and discharged; that on the 14th day of March thereafter, or thereabouts, said matter was heard before the Court, Hon. Bourquin presiding; that said Judge Bourquin, in a written opinion stated that for affiant to file a petition in bankruptcy, and then later come into court and state that he had no debts or liabilities which he was unable to pay, was evidence to the Court that his filing of said petition in bankruptcy had been done for the purpose of delaying and defrauding his creditors, and said Judge Bourquin affirmed the order of said Referee, commanding petitioner to turn over to the Trustee in Bankruptcy, all of the petitioner's said assets.

That the assets of petitioner consist of a stage line for the transportation of passengers between Sacramento and Folsom, in the county of Sacramento, California.

That thereafter, and on the 24th day of March, 1925, your petitioner filed with the said Evan J. Hughes, Referee aforesaid, a motion for confirmation of the agreement between your petitioner and the creditors of the aforesaid copartnership, to wit, Pierce, Pierce and Douglass, setting forth therein said agreement in full and praying for a dismissal of the petition in bankruptcy and in accordance with the rules of procedure of this court.

That said Referee refused to, and would not, and did not forward the same to this court as by law provided, nor to the Clerk of the said court, according to the rules of said court, or whatsoever or at all; that on or about the 22d day of May, 1925, said Referee informed petitioner that if he would agree to pay the costs in said cause to date, and would allege in his motion for dismissal that all of the debts and liabilities of the bankrupt had been paid, filing another motion containing merely these [19] allegations, that he, said Referee, would forward the same to the Court for hearing and disposition; that your petitioner did file with said Referee another motion in accordance with the request of said Referee on the 23d day of May, 1925; that said Referee refused to, and would not, and did not forward the same to the court, or to the Clerk of said court, as by rule of this court provided or whatsoever or at all.

That thereafter, to wit, on the 14th day of July, 1925, said Referee in Bankruptcy caused the following notice to be made and mailed to petitioner, and to the creditors of said copartnership, to wit:

In the District Court of the United States, in and for the Northern District of California.

No. 1407.

In the Matter of RUSSELL O. DOUGLASS, Bankrupt.

NOTICE OF APPLICATION FOR SALE OF
PERSONAL PROPERTY.

To the Creditors of the Above-named Bankrupt:

Notice is hereby given that the trustee in the above bankruptcy matter has filed an application for authority to sell certain personal property consisting of the franchise of the automobile stage line between Sacramento and Folsom in Sacramento County, together with the automobiles and equipment used by the bankrupt in connection with said stage line, and you are further notified that a meeting of creditors will be held at the office of Evan J. Hughes, Referee in Bankruptcy, at Room 614, Capital National Bank Building, Sacramento, California, on the 3d day of August, 1925, at 11 o'clock A. M., at which time said application will be heard.

Dated: July 14th, 1925.

EVAN J. HUGHES,
Referee in Bankruptcy.

That in accordance with the information given in the above notice, and on the 3d day of August, 1925, a meeting was held in the said office of the Referee, aforesaid, at which meeting there appeared the following persons, and no others, to wit: A. B. Reynolds, Esq., W. H. Funk, Esq., Wm. Sitton, Esq., and Peter J. Wilkie, Esq., counselor for petitioner Douglass.

That upon the Referee, aforesaid, Evan J. Hughes, Esq., passing upon the application for authority to sell the personal property [20] aforesaid, Peter J. Wilkie, Esq., counselor for petitioner, made objection, and resisted the granting of said application, on the grounds following, to wit:

1st. That there were no individual liabilities, and no individual creditors, whose claims had not been settled, that the application was made on behalf of the partnership creditors, and that the partnership assets had not been exhausted, and no attempt had been made to dispose of them.

2d. That an agreement had been entered into between Russell O. Douglass and the creditors of the partnership, whereby certain of said creditors had agreed in writing to pay off all of the said partnership liabilities on consideration of the transfer to them of all of the interests of the said Douglass, that said creditors had obtained said transfer of the said interests of petitioner, and were now in possession of said property, were operating, and had been operating said partnership business, and had paid certain of the liabilities of said partnership, and had released petitioner from liability on

the partnership debts, by the execution of the said agreement.

That, after hearing the argument of counsel for petitioner Douglass, the Referee made an order granting the application of the trustee, and authorizing said Trustee to sell the aforesaid personal property of petitioner Douglass.

That if such sale is made your petitioner will be irreparably injured, and his stage business will be lost to him without opportunity to be heard by the Court, in respect to the agreement and settlement of petitioner's debts and liabilities, as hereinbefore stated.

That no injury can be suffered by the creditors or alleged creditors of the partnership, or of petitioner in the above-entitled cause, and that your petitioner will be greatly damaged and [21] injured, if this sale is permitted, or if his said franchise is sold, as proposed by said trustee.

WHEREFORE, your petitioner prays the Court for an order to show cause, directed to Evan J. Hughes, Esq., Referee in Bankruptcy, and to Roy W. Blair, Esq., Trustee in Bankruptcy, in the above-entitled cause, commanding them, and each of them, that they show cause before the Court why an order should not be granted restraining them from selling the personal property of the petitioner, and for such other and further relief as may be just.

RUSSELL O. DOUGLASS,

Affiant.

Subscribed and sworn to before me this 4th day of August, 1925.

[Seal] C. W. BAKER,
Notary Public, in and for the County of Sacramento, State of California.

State of California,
County of Sacramento,—ss.

Peter J. Wilkie, Esq., being first duly sworn, deposes and says, as follows: I am the attorney and counsel of record for the petitioner Douglass, in the above-entitled matter, and am familiar with all the matters and things in the above and foregoing affidavit contained, and I believe such matters to be therein truly stated, and such affidavit to be true.

PETER J. WILKIE.

Subscribed and sworn to before me this 4th day of August, 1925.

[Seal] C. W. BAKER,
Notary Public, in and for the County of Sacramento, State of California.

[Endorsed]: Filed at 2 o'clock P. M. Aug. 5, 1925.

[22]

In the District Court of the United States in and
for the Northern District of California.

No. 1407.

In the Matter of RUSSELL O. DOUGLASS, Bank-
rupt.

ORDER TO SHOW CAUSE.

On the affidavit of the above-named Russell O. Douglass, and the supporting affidavit of his counsel, Peter J. Wilkie, Esq., copies of which are hereto attached, and upon all the papers and records filed with the Referee and Clerk of the court, in the above-entitled matter:

IT IS ORDERED, that you, the said Evan J. Hughes, Esq., Referee in Bankruptcy, and you, the said Roy W. Blair, Esq., Trustee in Bankruptcy, in the above-entitled cause, show cause before this court, at San Francisco, in the Northern District of California, in the United States Postoffice Building, in said city, located on the corner of Seventh Street and Mission Street therein, on the 18th day of August, 1925, at the hour of 10 o'clock A. M., why an injunction should not be granted, restraining you and each of you from selling the personal property of the above-named bankrupt, consisting of an auto-stage line between Sacramento and Folsom cities and the franchise and equipment thereof, and for such other and further relief as may be just.

AND IT IS FURTHER ORDERED that you and each of you, your agents and servants, be in the meantime restrained, and you are hereby forbidden to sell or to offer the said property for sale until the further order of this court.

Dated at San Francisco, California, this 5th day of August, 1925.

A. F. ST. SURE,
Judge of the Said District Court.

[Endorsed]: Filed at 2 o'clock P. M. Aug. 5, 1925.
[23]

At a stated term of the Northern Division of the United States District Court for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Friday, the 21st day of August, in the year of our Lord one thousand nine hundred and twenty-five. Present: the Honorable A. F. ST. SURE, District Judge.

No. 1407.

In re RUSSELL O. DOUGLASS, Bkt.

MINUTES OF COURT—AUGUST 21, 1925—ORDER DISSOLVING RESTRAINING ORDER.

The order to show cause why an injunction should not be granted restraining Referee and Trustee in Bankruptcy in the above case from selling the personal property of the above-named bankrupt, hereto-

fore argued and submitted, being now fully considered, IT IS ORDERED that the order to show cause be denied, restraining order heretofore issued be and the same is hereby dissolved, and this cause referred to Evan J. Hughes, Esq., Referee in Bankruptcy, for further proceedings. [24]

In the District Court of the United States in and for the Northern District of California.

No. 1407.

In the Matter of RUSSELL O. DOUGLASS, Bankrupt.

PETITION FOR APPEAL.

To the Honorable WM. H. HUNT, United States Circuit Judge:

Comes now R. O. Douglass, individual creditor of the estate of the above-named bankrupt, feeling himself aggrieved by the order of this Court and made and entered on the 21st day of August, 1925, and hereby appeals from said order, denying the order to show cause, and dissolving the preliminary injunction and restraining order, heretofore issued, and referring said cause to Evan J. Hughes, Esq., Referee in Bankruptcy, for further proceedings, for the reasons specified in the assignment of errors filed herein, and prays that this appeal be allowed, and that citation issue as provided by law, and that a transcript of the record, proceedings and papers upon which said order is based, duly authenticated,

may be sent to the United States Circuit Court of Appeals for the Ninth Circuit, sitting at San Francisco, in the State of California.

Dated this 28th day of August, 1925.

PETER J. WILKIE, Esq.,
Attorney for R. O. Douglass. [25]

In the District Court of the United States in and for the Northern District of California.

No. 1407.

In the Matter of RUSSELL O. DOUGLASS, Bankrupt.

ASSIGNMENT OF ERRORS.

Comes now R. O. Douglass, and says that in the order made and entered in the above-entitled proceeding on the 21st day of August, 1925, there is manifest error, and files the following assignment of errors committed and happening in the said proceeding, upon which he will rely in his appeal from said order:

I.

In affirming the order of the Referee.

II.

In denying the order to show cause.

III.

In dissolving the preliminary injunction and restraining order issued and directed to the Referee and Trustee.

IV.

In ignoring the terms of a written agreement, made between the creditors of a solvent partnership, and a bankrupt partner for the settlement of firm debts.

V.

In authorizing the Referee and Trustee to sell the individual assets of the bankrupt, to apply on the liquidation of claims of said partnership, after 12 months' operation of the partnership business by a new firm, without an or any accounting from said partnership business. [26]

VI.

In authorizing the Referee and Trustee to sell the individual assets of the bankrupt to apply on the liquidation of partnership claims without and before having exhausted the assets of said partnership.

VII.

In failing and refusing to order all partnership creditors, to apply to the firm assets, for satisfaction of firm debts, until said firm assets were exhausted.

VIII.

In failing and refusing to order the Referee and Trustee to protect the individual assets of the bankrupt for the benefit of individual creditors.

IX.

In ordering the interest of this claimant in the individual assets of the bankrupt to be subject to the claim of partnership creditors.

X.

In failing and refusing to recognize the new partnership created by the solvent partners of the old firm, of which the bankrupt was a member, and those creditors who took over the partnership interests of the bankrupt upon a promise to satisfy and discharge the liabilities of the said partnership.

XI.

In authorizing the Referee and Trustee to sell the individual assets of the bankrupt, to apply on the liquidation of the debts of a solvent and going firm.

Dated this 28th day of August, 1925.

PETER J. WILKIE, Esq.,
Attorney for R. O. Douglass.

[Endorsed]: Filed Aug. 28, 1925. [27]

In the District Court of the United States in and for
the Northern District of California.

No. 1407.

In the Matter of RUSSELL O. DOUGLASS, Bank-
rupt.

ORDER ALLOWING APPEAL.

The foregoing petition of R. O. Douglass for an appeal from that certain order, made and entered in the above-entitled proceedings in bankruptcy on the 21st day of August, 1925, to the United States Circuit Court of Appeals for the Ninth Circuit, is hereby granted, and allowed, and the appeal bond is hereby fixed at Two Hundred and Fifty Dollars

(\$250.00), and upon the approval and filing of the said bond all further proceedings in the above matter will be suspended until after the hearing and determination of the appeal.

Dated this 28th day of August, 1925.

W. H. HUNT,
U. S. Circuit Judge.

[Endorsed]: Filed Aug. 28, 1925. [28]

BOND ON APPEAL.

KNOW ALL MEN BY THESE PRESENTS, that we, Russell O. Douglass, as principal, and Eagle Indemnity Company, a corporation organized under the laws of the State of New York, and authorized to transact business under the laws of the State of California, as sureties, are held and firmly bound unto Roy W. Blair, Trustee in Bankruptcy, in the full and just sum of Two Hundred Fifty and No/100ths dollars, to be paid to the said Roy W. Blair, ——— certain attorney, executors, administrators or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 31st day of August, in the year of our Lord one thousand nine hundred and twenty-five.

WHEREAS, lately at a District Court of the United States for the Northern District of California, in a matter depending in said court, between

Russell O. Douglass and said Roy W. Blair, as Trustee, and an order was made against the said Russell O. Douglass, and the said Russell O. Douglass, having obtained from said Court an order to reverse the order in the aforesaid matter and a citation directed to the said Roy W. Blair, citing and admonishing him to be and appear at a United States Court of Appeals for the Ninth Circuit, to be holden at San Francisco, in the State of California upon a time hereinafter to be noticed:

Now, the condition of the above obligation is such, That if the said Russell O. Douglass shall prosecute said order to effect, and answer all costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

RUSSELL O. DOUGLASS. (Seal)

[Seal] EAGLE INDEMNITY COMPANY,

By H. J. THIELEN, (Seal)

Attorney-in-Fact.

Acknowledged before me the day and year first above written.

[Seal]

_____.

State of California,
County of Sacramento,—ss.

On this 31st day of August, 1925, before me, E. P. Gascoigne, a Notary Public in and for said Sacramento County, residing therein duly commissioned and sworn, personally appeared H. J. Thielen, known to me to be the person whose name is subscribed to the within instrument as the at-

torney in fact of Eagle Indemnity Company, and the said H. J. Thielen, acknowledged to me that he subscribed the name of Eagle Indemnity Company thereto as principal and his own name as attorney in fact.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed my official seal, at my office in the County of Sacramento the day and year in this certificate first above written.

[Seal] E. P. GASCOIGNE,
Notary Public in and for said Sacramento County,
State of California.

Approved:

W. H. HUNT,
Circuit Judge. [29]

In the District Court of the United States in and
for the Northern District of California.

No. 1407.

In the Matter of RUSSELL O. DOUGLASS,
Bankrupt.

PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of the District Court of the United
States for the Northern District of California:

You are hereby requested, in preparing your return to the citation on appeal in the above-entitled cause, to include the following:

1. Motion to review Referee's order.

2. Opinion of Judge affirming Referee's order.
3. Order of Referee authorizing Trustee to sell individual assets of bankrupt.
4. Affidavit and petition for order to show cause.
5. Order of the District Judge appealed from.
6. Petition for appeal.
7. Order allowing appeal.
8. Assignment of errors.
9. Citation on appeal.
10. Praecipe for transcript of record, which comprises all papers, records or other proceedings than those above mentioned which are necessary to be included by the Clerk of said court in making up his return to said citation as a part of such record.
11. Bond on appeal.

PETER J. WILKIE, Esq.,
Attorney for R. O. Douglass. [30]

Personal service on me of copies of the petition for appeal, order, assignment of errors, and praecipe for transcript of record, in the within matter is hereby admitted, this 29th day of August, 1925.

A. B. REYNOLDS,
Attorney for Trustee.

[Endorsed]: Filed at 11 o'clock A. M., Aug. 29, 1925. [31]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO TRANSCRIPT ON APPEAL.

I, Walter B. Maling, Clerk of the United States District Court, for the Northern District of Cali-

fornia, do hereby certify that the foregoing 32 pages, numbered from 1 to 32, inclusive, contain a full, true and correct transcript of certain records and proceedings in the Matter of Russell O. Douglass, Bankrupt, No. 1407, as the same now remain on file and of record in this office; said transcript having been prepared pursuant to and in accordance with the praecipe for transcript on appeal (copy of which is embodied herein).

I further certify that the cost for preparing and certifying the foregoing transcript on appeal is the sum of Five and 00/100 (\$5.00) Dollars, and that the same has been paid to me by the attorney for petitioner herein.

Annexed hereto is the original citation on appeal.

In Witness Whereof I have hereunto set my hand and affixed the seal of said District Court, this 18th day of September, A. D. 1925.

[Seal]

WALTER B. MALING,
Clerk.

By F. M. Lampert,
Deputy Clerk. [32]

CITATION ON APPEAL.

United States of America,—ss.

The President of the United States, to Roy W. Blair, as Trustee in Bankruptcy of the Estate of Russell O. Douglass, and to A. B. Reynolds, Esq., Attorney for said Trustee in Bankruptcy,
GREETING:

You are hereby cited and admonished to be and

appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's Office of the Northern Division of the United States District Court for the Northern District of California, entitled In the Matter of Russell O. Douglass, Bankrupt, No. 1407 and wherein Russell O. Douglass, is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable WM. H. HUNT, United States Circuit Judge for the United States Circuit Court of Appeals for the Ninth Circuit, this 28th day of August, A. D. 1925.

W. H. HUNT,
United States Circuit Judge.

United States of America,—ss.

On this 29th day of August, in the year of our Lord one thousand nine hundred and twenty-five, personally appeared before me, Peter J. Wilkie, Esq., the subscriber to this certificate, and makes oath that he delivered a true copy of the within citation to A. B. Reynolds, Esq., Attorney for the Trustee in the within entitled citation named.

PETER J. WILKIE, Esq.

Subscribed and sworn to before me at Sacramento,
this 29th day of August, A. D. 1925.

[Seal] C. W. BAKER,
Notary Public in and for the County of Sacra-
mento, State of California.

[Endorsed]: Filed at 11 o'clock and — min. A. M.,
Aug. 29, 1925. [33]

[Endorsed]: No. 4693. United States Circuit
Court of Appeals for the Ninth Circuit. Russell O.
Douglass, Appellant, vs. Roy W. Blair, as Trustee
in Bankruptcy of the Estate of Russell O. Douglass,
Appellee. Transcript of Record. Upon Appeal
from the Northern Division of the United States
District Court for the Northern District of Cali-
fornia.

Filed September 21, 1925.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.